



STEVEN L. BESHEAR
GOVERNOR

EXECUTIVE ORDER

2009-609
June 30, 2009

Secretary of State
Frankfort
Kentucky

By virtue of the authority vested in me by Section 12.210(1) of Kentucky Revised Statutes and as Governor of the Commonwealth of Kentucky, I, Steven L. Beshear, do hereby approve an employment contract between **Thomas J. Hellmann**, Frankfort, Kentucky and the **Kentucky Board of Pharmacy** as outlined in the attached contract.

Please enter this Executive Order upon the Executive Journal and file the attached Contract with the Executive Order.


STEVEN L. BESHEAR
Governor


TREY GRAYSON
Secretary of State

RECEIVED AND FILED

DATE 7/2/09

TREY GRAYSON

SECRETARY OF STATE

COMMONWEALTH OF KENTUCKY

BY R. Adler



Commonwealth of Kentucky

CONTRACT

IMPORTANT

Show Doc ID number on all packages, invoices and correspondence.

Doc Description: 270 - EMPLOYING HEARING OFFICER ON A CONTRACTURAL BASIS

Doc ID No: PON2 270 0900012994 1

Procurement Folder: 1426512

Procurement Type: Personal Service Contract

Administered By: Darla Sayre

Cited Authority: FAP111-43-00-L

Telephone: 859-246-2820

Issued By: Darla Sayre

**C
O
N
T
R
A
C
T
O
R**

THOMAS J HELLMANN

810 HICKMAN HILL RD

FRANKFORT

KY 40601-8889

US

Line	CE Description	Due Date	Quantity	Unit	Unit Price	Contract Amt	Total Price
1	EMPLOYING HEARING OFFICE ON A CONTRACTURAL BASIS		0.00		0.00000	25,000.00	25,000.00

Extended Description

Contractor[s] will be appointed to conduct hearings on behalf of and in the name of the Kentucky Board of Pharmacy on all matters referred for hearing by the Board/Executive Director as indicated in KRS 311.565[1][g]. Hourly compensation and qualifying travel expenses to be paid by the Board to the hearing officer. The person[s] serving in this capacity will receive compensation at \$125 per hour under a contract with the Board to render the following services in hearings on complaints assigned pursuant to KRS 311.591[5], emergency hearings assigned pursuant to KRS 13B.125[3] and revocation hearings assigned pursuant to KRS 311.594[5], as necessary for each case: schedule and conduct prehearing conferences; prepare and issue prehearing orders; prepare correspondence; consider and rule upon prehearing motions and other prehearing matters; conduct the hearing; review evidence and testimony; and engage in legal research and preparation of the written decision. The Board will reimburse the hearing officer[s] for authorized expenses, including authorized travel expenses. [The rate of \$125 per hour is commensurate with the current rate of pay for hearing officers for expenses within the Office of Attorney General as contracted to other state agencies. Authorized travel expenses will be determined by travel expense policies in place for state employees at the time of the travel.] The hearing officer[s] will be assigned to specific cases in accordance with the applicable statutes. Services will commence on May 1, 2009 and will continue through June 30, 2010. Upon expiration of its initial term, the contract may be renewed for two additional two year periods, if it is in the best interest of the Commonwealth to do so. Each renewal period shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet, prior review by the Government Contract Review Committee in accordance with KRS 45A.695 and KRS 45A.705, and contingent upon available funding by the Board. The Board has the right to cancel the selection process at any time for any reason. Only the President of the Board or its Executive Director may bind the Board.

**B
I
L
L
T
O**

BD OF PHARMACY
2624 Research Park Dr.
Ste 302
Lexington
US

KY 40511

**S
H
I
P
T
O**

BD OF PHARMACY
2624 Research Park Dr.
Ste 302
Lexington
US

KY 40511

Total Order Amount: 25,000.00

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTURAL BASIS	Page 2 of 17
------------	------------------------------------	--	-----------------------------------

FREE Free Form

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTURAL BASIS	Page 3 of 17
------------	-------------------------	---	-----------------

REQUEST FOR PROPOSAL FOR PERSONAL SERVICES CONTRACT

KENTUCKY BOARD OF PHARMACY HEARING OFFICER

RFP 270 0900001823

This document constitutes a Request for Proposals for Personal Service Contract from qualified individuals and organizations to furnish those services as described herein for the Commonwealth of Kentucky. Kentucky Board of Pharmacy.

I. DESCRIPTION OF SERVICES REQUIRED

The person[s] serving in this capacity will receive compensation at \$125 per hour under a contract with the Board to render the following services in hearings on complaints assigned pursuant to KRS 311.591(5), emergency hearings assigned pursuant to KRS 13B.125(3), and revocation hearings assigned pursuant to KRS.594(5), as necessary for each case: schedule and conduct prehearing conferences; prepare and issue prehearing orders; prepare correspondence; consider and rule upon prehearing motions and other prehearing matters; conduct the hearing; review evidence and testimony; and engage in legal research and preparation of the written decision. The Board will reimburse the hearing officer(s) for authorized expenses, including authorized travel expenses. (The compensations rate of \$125 per hour is commensurate with the current rate of pay for hearing officers for expenses within the Office of Attorney General as contracted to other state agencies. Authorized travel expenses will be determined by travel expense policies in place for state employees at the time of the travel.) The hearing officer(s) will be assigned to specific cases in accordance with the applicable statutes.

II. INFORMATION AND DATA REQUIRED OF EACH OFFEROR

Offerors shall submit a signed proposal to Kentucky Board of Pharmacy that includes the following information.

Please note that an authorized agent MUST complete and sign the Solicitation form. Failure to sign shall render the bid invalid.

Applicants should submit each component in the order listed below. Item 1 must be included in order for proposals to be responsive. Failure to include items 2-5 may result in a lower score. Item 6 is discretionary and may or may not be considered by the Board. Applicants must submit an original signed application. Three (3) copies should also be included.

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTURAL BASIS	Page 4 of 17
------------	--------------------------------	--	-------------------------

1. Solicitation cover page including authorized signatures in ink and FEIN (if you are applying under a company) or SSN (if you are applying as an individual). To obtain this document you must access this RFP via the eProcurement website at <http://eProcurement.ky.gov>. You must include your name, address, phone and email address in the vendor portion of the solicitation cover page.

2. Detailed listing of the years in which the applicant served as a Hearing Officer for the Kentucky Board of Pharmacy, for more than half of the year.

3. Detailed listing of the years in which the applicant served as a Hearing Officer for any Board or agency in the Commonwealth, for more than half of the year.

4. Detailed listing of each Board or agency for which the applicant has served as a Hearing Officer.

5. Detailed listing of the positions in which the applicant practiced litigation, either as a civil or criminal attorney, or as an administrative agency attorney, and the inclusive periods of each such employment.

6. Detailed listing of the judicial clerkships in which the applicant has served, to include the name of the judge and the inclusive dates of the clerkships.

7. Any other information the applicant would like for the Board to consider in determining the applicant's responsiveness and/or qualifications and expertise for the position.

8. QUALIFICATIONS:

A. Juris Doctor (JD), member of the Kentucky Bar Association in good standing, and current certification as a KRS 13B Hearing Officer;

B. Possess the knowledge and ability to conduct hearings in accordance with appropriate, standard legal practice, including Kentucky Revised Statute 13B and 311, et seq,

C. Possess the knowledge and ability to render and write decisions in accordance with appropriate, standard legal practice, including Kentucky Revised Statute 13B, et seq,

D. Prior experience conducting hearings on behalf of the Kentucky Board of Pharmacy, and,

E. Must be willing and able to conduct each assigned hearing at the Board's offices, 2624 Research Park Drive, Suite 302, Lexington, Kentucky 40511 or at such other specific location in the Commonwealth of Kentucky designated by the Board for a specific hearing.

9. The Board reserves the right to ask for references at any time during the process and also reserves the right to contact such references as appropriate.

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTURAL BASIS	Page 5 of 17
------------	--------------------------------	--	-------------------------

10. Period of Performance.

This contract shall be effective upon filing with the Government Contract Review Committee and the initial term will commence on June 1, 2009 and will continue through June 30, 2010. Upon expiration of its initial term, the contract may be renewed for two (2) additional two (2) year periods, if it is in the best interest of the Commonwealth to do so. Each renewal period shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet, prior review by the Government Contract Review Committee in accordance with KRS 45A.695 and KRS 45A.705, and contingent upon available funding by the Board.

The Board has the right to cancel the selection process at any time for any reason. Only the President of the Board or its Executive Director may bind the Board.

III. RELATIVE IMPORTANCE OF PARTICULAR QUALIFICATIONS

After determining that a proposal includes all required information and data, the Kentucky Board of Pharmacy will evaluate the proposal based on the following evaluation factors:

The Kentucky Board of Pharmacy will evaluate candidates according to the following criteria. Vendors must be deemed "responsible" in order to be evaluated. For the purpose of this RFP, "responsible" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability, which will assure good faith performance.

Phase I

1. Each year during which the applicant serves as Hearing Officer for the Kentucky Board of Pharmacy, for more than half the year. 30 pts.
2. Each year during which the applicant served as Hearing Officer for any Board/Agency, for more than half the year. 10 pts.
3. Each Board/Agency before which the applicant served as Hearing Officer, for more than half the year. 10 pts.
4. Each year of prior litigation experience, as Civil or Criminal Trial Attorney or Administrative Litigation Attorney. 20 pts.
5. Each year of Judicial Clerkship, State and/or Federal. 20 pts.

The Kentucky Board of Pharmacy reserves the right to conduct discussions with candidates to determine the candidate's qualifications. Discussions shall not disclose any information derived from other candidates.

Note: Discussions conducted during Phase I of the evaluation, if necessary, are to provide clarification on information submitted in the proposal.

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTUAL BASIS	Page 6 of 17
------------	--------------------------------	---	-------------------------------

Following the Phase I evaluation of candidates, the top two candidates will then be considered in Phase II of the evaluation.

Phase II

Qualifications/Expertise to perform services requested. 100 %
Oral presentations may or may not be requested and will be based on
Phase I evaluation criteria one through five listed above.

All points begin at zero to begin Phase II.

Kentucky Board of Pharmacy reserves the right to conduct discussions with any offeror who has submitted a proposal to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

After determining the best proposal received, the department reserves the right to negotiate a fair and reasonable compensation based on the pricing submitted in the offeror's proposal. If the negotiations fail to reach an agreement on a fair and reasonable compensation rate, the department reserves the right to proceed to the next highest rated proposal.

IV. GENERAL INFORMATION

Offerors are advised that any personal service contract resulting from this Request for Proposals for Personal Service Contract must comply with all applicable provisions of KRS 45A and KRS 12.210 prior to becoming effective.

The Commonwealth reserves the right to reject any offers and to waive informalities and minor irregularities in offers received.

The Commonwealth reserves the right to request additional information as may reasonably be required for selection, and to reject any proposals for failure to provide additional information on a timely basis.

A contract, based on this RFP, may or may not be awarded. Any contract award from this RFP is invalid until properly approved and executed by the Finance and Administration Cabinet.

Notification of Award - To view the Award of Contract(s) and the Contractor(s) receiving the Award(s) for this Solicitation, access the **E-Procurement Directory** at <http://eprocurement.ky.gov>. The Award(s) information can be accessed by clicking on the View Awards link under the Procurement area located on the top of the center column of the E-Procurement Directory homepage. It is the vendor's responsibility to review this information in a timely fashion. No other notification of the results of an

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTURAL BASIS	Page 7 of 17
------------	--------------------------------	--	-------------------------

Award of Contract will be provided.

Questions regarding this RFP - Questions must be submitted in writing to the Kentucky Board of Pharmacy contact named in this RFP. The Commonwealth will respond to salient questions in writing by issuing an Addendum to the Solicitation. The Addendum shall be posted to the Commonwealth's E-Procurement page.

Access to Solicitation, RFP and Addenda - The Solicitation, the RFP and Attachments and any Addenda shall be posted to the E-Procurement Directory at <http://eprocurement.ky.gov>

It is the vendors' responsibility to assure they have obtained copies of all information and forms.

Proprietary Information – The RFP specifies the format, required information, and general content of proposals submitted in response to the RFP. The Kentucky Board of Pharmacy shall not disclose any portions of the proposals prior to contract award to anyone outside the Kentucky Board of Pharmacy, the Finance and Administration Cabinet, representatives of the Federal Government, if required, and the members of the evaluation committees. After a contract is awarded in whole or in part, the Kentucky Board of Pharmacy shall have the right to duplicate, use, or disclose all proposal data submitted by Vendors in response to this RFP as a matter of public record. Although the Commonwealth recognizes the Vendor's possible interest in preserving selected data which may be part of a proposal, the Commonwealth must treat such information as provided by the Kentucky Open Records Act, KRS 61.870 et sequitur.

Informational areas which normally might be considered proprietary shall be limited to individual personnel data, customer references, selected financial data, formulae, and financial audits which, if disclosed, would permit an unfair advantage to competitors. If a proposal contains information in these areas that a Vendor declares proprietary in nature and not available for public disclosure, the Vendor shall declare the inclusion of proprietary information and shall noticeably label as proprietary each sheet containing such information. Proprietary information shall be submitted under separate sealed cover marked "Proprietary Data". Proposals containing information declared by the Vendor to be proprietary, either in whole or in part, outside the areas listed above may be deemed non-responsive to the RFP and may be rejected.

Additional Requirements – Vendors should review and comply with the general bidding requirements listed under "Laws, Policies and Procedures" and "Standard Attachments and General Terms" located on the eProcurement Web page at <https://eprocurement.ky.gov>.

Certification Regarding Debarment and Suspension

In accordance with Federal Acquisition Regulation 52.209-5, the Vendor shall certify, by signing the Solicitation, that to the best of its knowledge and belief, the Vendor and/or its

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACT BASIS	Page 8 of 17
------------	--------------------------------	--	-------------------------

Principals is (are) not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any State or Federal agency.

"Principals", for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager, plant manager, head of subsidiary, division, or business segment, and similar positions.

Contract Components and Order of Precedence

The Commonwealth's acceptance of the Contractor's offer in response to the Solicitation, indicated by the issuance of a Contract Award, shall create a valid Contract between the Parties consisting of the following:

1. Any written Agreement between the Parties;
2. Any Addenda to the Solicitation;
3. The Solicitation and all attachments thereto.
4. PSC1 Personal Service Contract Clauses;
5. Any Best and Final Offer;
6. Any clarifications concerning the Contractor's proposal in response to the Solicitation;
7. The Contractor's proposal in response to the Solicitation.

In the event of any conflict between or among the provisions contained in the Contract, the order of precedence shall be as enumerated above.

V. RESPONSES

Proposals submitted in response to this Request for Proposals for a Personal Service Contract must be received in hardcopy form **no later than 4:30 p.m. Eastern Daylight Savings Time on Monday, May 18, 2009.** Proposals which arrive after this date and time shall not be considered for an award of contract, unless: a) no bids are received other than the late bid; and b) the need of an agency is determined to preclude the re-solicitation of bids; and c) the offer is evaluated and found to be in the best interest of the Commonwealth.

One (1) marked Original Proposal and three (3) copies shall be submitted to:

**Kentucky Board of Pharmacy
Spindletop Administration Bldg., Ste. 302
2624 Research Park Drive
Lexington, KY 40511
Phone 859-246-2820
Fax 859-246-2823**

0900012994 Pharmacy.board@ky.gov	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTURAL BASIS	Page 9 of 17
-------------------------------------	-------------------------	---	-----------------

VI. RESTRICTIONS ON COMMUNICATIONS

The Contract Contact named below shall be the sole point of contact throughout the procurement process. All communications, oral and written (regular mail, express mail, electronic mail, or fax), concerning this procurement shall be addressed to:

**Kentucky Board of Pharmacy
Spindletop Administration Bldg., Ste. 302
2624 Research Park Drive
Lexington, KY 40511
Phone 859-246-2820
Fax 859-246-2823
Pharmacy.board@ky.gov**

From the issue date of this RFP until a Contractor(s) is selected and the selection is announced, Offerors are not allowed to communicate with any Commonwealth Staff concerning this RFP except:

- # The Contract Contact cited in this RFP; or
- # Via written questions submitted to the Contract Contact

For violation of this provision, the Commonwealth shall reserve the right to reject their proposal response.

ITEMS THAT SHALL BE SUBMITTED WITH YOUR BID

1. SIGNED SOLICITATION INCLUDING YOUR CORRECT ADDRESS, REMIT TO ADDRESS AND FEDERAL TAX IDENTIFICATION NUMBER.
2. SIGNED ADDENDUMS (IF APPLICABLE)
3. SIGNED AND NOTARIZED REQUIRED AFFIDAVIT FOR BIDDERS OR OFFERORS

PSC Standard Terms and Conditions

Whereas, the first party, the state agency, has concluded that either state personnel are not available to perform said function, or it would not be feasible to utilize state personnel to perform said function; and

Whereas, the second party, the contractor, is available and qualified to perform such

0900012994 function; and	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTURAL BASIS	Page 10 of 17
-----------------------------	--------------------------------	--	-------------------------

Whereas, for the abovementioned reasons, the state agency desires to avail itself of the services of the second party;

NOW THEREFORE, the following terms and conditions are applicable to this contract:

Effective Date:

This agreement is not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the contract and until the contract has been submitted to the Legislative Government Commission Government Contract Review Committee ("LRC").

Payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

Renewals:

Upon expiration of the initial term, the contract may be renewed in accordance with the terms and conditions in the original solicitation. Renewal shall be subject to prior approval from the Secretary of the Finance and Administration Cabinet or his authorized designee and the LRC Government Contract Review Committee in accordance with KRS 45A.695 and KRS 45A.705, and contingent upon available funding.

LRC Policies:

Pursuant to KRS 45A.725, LRC has established policies which govern rates payable for certain professional services. These are located on the LRC webpage (<http://www.lrc.ky.gov/Statcomm/Contracts/homepage.htm>) and would impact any contract established under KRS 45A.690 *et seq.*, where applicable.

Choice of Law and Forum:

All questions as to the execution, validity, interpretation, construction and performance of this agreement shall be governed by the laws of the Commonwealth of Kentucky. Furthermore, the parties hereto agree that any legal action which is brought on the basis of this agreement shall be filed in the Franklin County Circuit Court of the Commonwealth of Kentucky.

Cancellation:

The state agency shall have the right to terminate and cancel this agreement at any time not to exceed thirty (30) days' written notice served on the contractor by registered or certified mail.

Funding Out Provision:

The state agency may terminate this contract if funds are not appropriated to the

	Document Phase	Document Description	Page
0900012994	Draft	270 - EMPLOYING HEARING OFFICE R ON A NON-CONTRACTUAL BASIS	11 of 17

contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the contract. The state agency shall provide the contractor thirty (30) calendar days written notice of termination of the contract.

Authorized to do Business in Kentucky:

The contractor affirms that it is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

Invoices for fees:

The contractor shall maintain supporting documents to substantiate invoices and shall furnish same if required by state government.

Travel expenses, if authorized:

The contractor shall be paid for no travel expenses unless and except as specifically authorized by the specifications of the contract.

Other expenses, if authorized herein:

The contractor shall be reimbursed for no other expenses of any kind, unless and except as specifically authorized within the specifications of the contract.

If the reimbursement of such expenses is authorized, the reimbursement shall be only on an out-of-pocket basis. Request for payment of same shall be processed upon receipt from the contractor of valid, itemized statements submitted periodically for payment at the time any fees are due. The contractor shall maintain supporting documents that substantiate every claim for expenses and shall furnish same if requested by state government.

- # Invoicing for fee: the contractor's fee shall be original invoice(s) and shall be documented by the contractor. The invoice(s) must conform to the method described in the specifications of the contract.
- # Invoicing for travel expenses: the contractor must follow instructions described in the specifications of the contract. Either original or certified copies of receipts must be submitted for airline tickets, motel bills, restaurant charges, rental car charges, and any other miscellaneous expenses.
- # Invoicing for miscellaneous expenses: the contractor must follow instructions prescribed in the specifications of the contract. Expenses submitted shall be documented by original or certified copies.

Purchasing and specifications:

The contractor certifies that he will not attempt in any manner to influence any specifications to be restrictive in any way or respect nor will he attempt in any way to influence any purchasing of services, commodities or equipment by the Commonwealth of Kentucky. For the purpose of this paragraph and the following paragraph that pertains to conflict-of interest laws and principles, "he" is construed to mean "they" if more than

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTUAL BASIS	Page 12 of 17
------------	--------------------------------	---	-------------------------

one person is involved and if a firm, partnership, corporation, or other organization is involved, then "he" is construed to mean any person with an interest therein.

Conflict-of-interest laws and principles:

The contractor certifies that he is legally entitled to enter into this contract with the Commonwealth of Kentucky, and by holding and performing this contract will not be violating either any conflict of interest statute (KRS 45A.330-45A.340, 45A.990, 164.390), or KRS 11A.040 of the executive branch code of ethics, relating to the employment of former public servants.

Campaign finance:

The contractor certifies that neither he/she nor any member of his/her immediate family having an interest of 10% or more in any business entity involved in the performance of this contract, has contributed more than the amount specified in KRS 121.056(2), to the campaign of the gubernatorial candidate elected at the election last preceding the date of this contract. The contractor further swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the company which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth, and that the award of a contract to him/her or the company which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

Certification:

The state agency certifies that it is in compliance with the provisions of KRS 45A.695. "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract". The contractor, as defined in KRS 45A.030(9), agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this contract for the purpose of financial audit or program review. Furthermore, any books, documents, papers, records, or other evidence provided to the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, or the Legislative Research Commission which are directly pertinent to the contract shall be subject to public disclosure regardless of the proprietary nature of the information, unless specific information is identified and exempted and agreed to by the Secretary of the Finance and Administration Cabinet as meeting the provisions of KRS 61.878(1)(c) prior to the execution of the contract. The Secretary of the Finance and Administration Cabinet shall not restrict the public release of any information which would otherwise be subject to public release if a state government agency was providing the services.

Protest

Pursuant to KRS 45A.285, The Secretary of the Finance and Administration Cabinet, or his designee, shall have authority to determine protests and other controversies of actual or prospective Vendors in connection with the solicitation or selection for award of a Master Agreement or Contract.

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R	Page 13 of 17
------------	--------------------------------	---	-------------------------

Any actual or prospective Vendor, who is aggrieved in connection with the solicitation or selection for award of a Master Agreement or Contract, may file protest with the Secretary of the Finance and Administration Cabinet. A protest or notice of other controversy must be filed promptly and in any event within two (2) calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies must be in writing and shall be addressed to:

Jonathan Miller, Secretary

Commonwealth of Kentucky
Finance and Administration Cabinet
Room 383, New Capitol Annex
702 Capitol Avenue
Frankfort, KY 40601
Phone #: (502) 564-4240
Fax #: (502) 564-6785

The Secretary of Finance and Administration Cabinet shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

The decision by the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

Social security: (check one)

_____ the parties are cognizant that the state is not liable for social security contributions pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

_____ the parties are cognizant that the state is liable for social security contributions pursuant to 42 U.S. Code, section 418, relative to the compensation of the second party for this contract.

Violation of tax and employment laws:

KRS 45A.485 requires the contractor to reveal to the Commonwealth, prior to the award of a contract, any final determination of a violation by the contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to the state sales and use tax, corporate and utility tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively.

To comply with the provisions of KRS 45A.485, the contractor shall report any such final determination(s) of violation(s) to the Commonwealth by providing the following information regarding the final determination(s): the KRS violated, the date of the final determination, and the state agency which issued the final determination.

KRS 45A.485 also provides that, for the duration of any contract, the contractor shall be

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTUAL BASIS	Page 14 of 17
------------	--------------------------------	---	-------------------------

in continuous compliance with the provisions of those statutes which apply to the contractor's operations, and that the contractor's failure to reveal a final determination as described above or failure to comply with the above statutes for the duration of the contract, shall be grounds for the Commonwealth's cancellation of the contract and the contractor's disqualification from eligibility for future state contracts for a period of two (2) years.

Contractor must check one:

_____ The contractor has not violated any of the provisions of the above statutes within the previous five (5) year period.

_____ the contractor has violated the provisions of one or more of the above statutes within the previous five (5) year period and has revealed such final determination(s) of violation(s). A list of such determination(s) is attached.

Discrimination:

Discrimination (because of race, religion, color, national origin, sex, age, or disability) prohibited. This section applies only to contracts utilizing federal funds, in whole or in part. During the performance of this contract, the contractor agrees as follows:

1. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex or age. The contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The contractor agrees to provide, upon request, needed reasonable accommodations. The contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

2. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, sex, age or disability.

3. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

0900012994	Document Phase Draft	Document Description 270 - EMPLOYING HEARING OFFICE R ON A CONTRACTURAL BASIS	Page 15 of 17
------------	------------------------------------	--	-----------------------------

4. The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

5. The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

6. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

7. The contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor, issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

END OF RFP

Solicitation #: _____

REQUIRED AFFIDAVIT FOR BIDDERS OR OFFERORS

- A. In accordance with the provisions of KRS 45A.110 and KRS 45A.115, each bidder or offeror shall swear or affirm under penalty of perjury that:
- (1) neither the bidder or offeror as defined in KRS 45A.070(6), nor the entity which he/she represents, has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky, and
 - (2) the award of a contract to the bidder or offeror or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth.

	Document Phase	Document Description	Page
0900012994	Draft	270 - EMPLOYING HEARING OFFICE R	16 of 17

B. I hereby swear and affirm under penalty of perjury that the entity bidding is properly authorized under the laws of the Commonwealth of Kentucky to conduct business in this state; is duly registered with the Kentucky Secretary of State to the extent required by Kentucky law; and will remain in good standing to do business in the Commonwealth of Kentucky for the duration of any contract awarded.

C. I hereby swear and affirm under penalty of perjury that the entity bidding, and all subcontractors therein, are aware of the requirements and penalties outlined in KRS 45A.485; have properly disclosed all information required by this statute; and will continue to comply with such requirements for the duration of any contract awarded.

D. I hereby swear and affirm under penalty of perjury that the entity bidding is not delinquent on any state taxes or fees owed to the Commonwealth of Kentucky and will remain in good standing for the duration of any contract awarded.

E, I hereby swear or affirm under penalty of perjury that the entity bidding, and its affiliates, are duly registered with the Kentucky Department of Revenue to collect and remit the sales and use tax imposed by KRS Chapter 139 to the extent required by Kentucky law; and will remain registered for the duration of any contract awarded.

I have fully informed myself regarding the accuracy of the statements made above.

SIGNATURE

Printed Name

Title

Date

Company Name

Address

Subscribed and sworn to before me by _____,
(Affiant) (Title)

of _____ this ____ day of _____, 20 ____.
(Company Name)

Notary Public

[seal of notary]

My commission expires: _____